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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JANE AND JOHN DOES 1 - 10,
individually and on behalf of others
similarly situated,

Plaintiffs,

v.

UNIVERSITY OF WASHINGTON, a
Washington public corporation; DAVID
DALEIDEN, an individual; and ZACHARY
FREEMAN, an individual,

Defendants.

No. 2:16-cv-01212

AMENDED COMPLAINT - CLASS
ACTION

Plaintiffs, Jane and John Does, by and through their attorneys of record, bring this Class Action Complaint on behalf of themselves and all those similarly situated against Defendants University of Washington, David Daleiden, and Zachary Freeman. Doe Plaintiffs seek to enjoin the University of Washington from disclosing records in response to public records requests submitted by Defendants Daleiden and Freeman unless their personal identifying information is redacted from the records. The records sought relate to the donation and transfer of fetal tissue involving the University of Washington’s Birth Defects Research Laboratory. Doe Plaintiffs do not object to disclosure of the substantive records themselves, but merely seek to have their personal identifying information withheld to protect their safety and privacy. In support of their Complaint, Doe Plaintiffs allege as follows:

AMENDED COMPLAINT - 1

1 **I. PARTIES**

2 **Proposed Class Representatives**

3 1. John Doe 1, who is an employee of Seattle Children’s Hospital, and at all relevant
4 times was a resident of the State of Washington.

5 2. Jane Doe 2, who is an employee of the University of Washington’s Birth Defects
6 Research Laboratory.

7 3. Jane Doe 3, who is an employee of Planned Parenthood of Greater Washington
8 and North Idaho (“PPGWN”), and at all relevant times was a resident of the State of
9 Washington.

10 4. Jane Doe 4, who is a former employee of Planned Parenthood Federation of
11 America (“PPFA”), and at all relevant times was a resident of the State of New York.

12 5. Jane Doe 5, who is an employee of Cedar River Clinics, and at all relevant times
13 was a resident of the State of Washington.

14 6. Jane Doe 6, who is an employee of Evergreen Hospital Medical Center, and at all
15 relevant times was a resident of the State of Washington.

16 7. Jane Doe 7, who is an employee of the University of Washington (“UW”), and at
17 all relevant times was a resident of the State of Washington.

18 8. Jane Doe 8, who is an employee of the University of Washington (“UW”), and at
19 all relevant times was a resident of the State of Washington.

20 9. This action is a class action filed by Jane and John Does 1-10 filed on behalf of all
21 persons similarly situated (collectively, “Doe Plaintiffs”).

22 **Defendants**

23 10. Defendant University of Washington (“UW”) is a Washington public corporation.

24 11. Defendant David Daleiden (“Daleiden”) is an individual, also named here in his
25 capacity as founder of the Center for Medical Progress. On information and belief, Daleiden is a
26 resident of the State of California.

1 present (“PR-2016-00117” or “Freeman Request”). Attached at **Exhibit B** is a copy of the
2 Freeman Request.

3 24. On or about July 21, 2016, UW notified “Individuals identified in records
4 responsive to David Daleiden request,” including Plaintiff Does, that Daleiden had submitted a
5 public records request. Attached at **Exhibit C** is a copy of the notice provided to Doe Plaintiffs
6 by the UW regarding the Daleiden Request. The notice stated that the UW “intends to release
7 the requested records on August 5, 2016” and that if the Doe Plaintiffs “believe that some or all
8 of the records are exempt from public disclosure, you may wish to seek a court order to enjoin
9 the release.” The UW identified the deadline for providing it a “signed court order enjoining the
10 release” as August 4, 2016.

11 25. On July 26, 2016, UW notified “Individuals identified in records responsive to
12 Zachary Freeman request,” including certain Doe Plaintiffs, that Freeman had submitted a public
13 records request. Attached at **Exhibit D** is a copy of the notice provided to certain Doe Plaintiffs
14 by the UW regarding the Freeman Request. The notice stated that the UW “intends to release the
15 requested records on August 10, 2016” and that if Jane Does “believe that some or all of the
16 records are exempt from public disclosure, you may wish to seek a court order to enjoin the
17 release.” The UW identified the deadline for filing pleadings to enjoin release as August 9,
18 2016.

19 26. Through counsel, the Doe Plaintiffs asked Daleiden and Freeman whether,
20 without narrowing the scope of the public records request, they would agree to accept the records
21 with redactions to the personal identifying information of the Doe Plaintiffs and all others
22 similarly situated. Attached at **Exhibits E and F** are copies of those letters. Daleiden and
23 Freeman both expressed willingness to consider redactions, but no agreement was reached
24 regarding the scope. Accordingly, the Doe Plaintiffs were forced to file this action to protect
25 their safety and privacy, as well as that of all others similarly situated.

26

AMENDED COMPLAINT - 4

1 27. Jane and John Does 1 and 3-6, and all those similarly situated, are or were
2 employed by a private entity involved in research using fetal tissue or fetal tissue donation
3 procurement—including, but not limited to Seattle Children’s Hospital, PPFA, PPGWNI, and
4 Cedar River Clinics—or are or were contracting with, representing, interning, or volunteering for
5 the same. While some may be publicly associated with a respective private entity, these Doe
6 Plaintiffs’ names and/or other personal identifying information (work addresses, work or cell
7 phone numbers, email addresses) are not publicly connected with involvement in fetal tissue
8 donation or research.

9 28. Jane Does 2, 7 and 8, and all those similarly situated, are or were employed by
10 public agencies involved in research using fetal tissue or fetal tissue donation procurement—
11 including, but not limited to, the UW, and specifically the BDRL—or are or were contracting
12 with, representing, interning, or volunteering for the same. While some may be publicly
13 associated with their respective agencies, these Doe Plaintiffs’ names and/or other personal
14 identifying information (work addresses, work or cell phone numbers, email addresses) are not
15 publicly connected with involvement in fetal tissue donation or research.

16 29. The current political climate has heightened attention and awareness of fetal
17 tissue donation and research, including the role played by providers of medical services who
18 facilitate tissue donation by patients who consent to donating, as well as the work of researchers
19 who use fetal tissue in their research. Daleiden and the Center for Medical Progress played a
20 direct role in creating that political climate, which has resulted in investigations by numerous
21 state Attorneys General and federal congressional committees. So far, none of the investigations
22 have found any evidence of wrongdoing. Also as a result of the same climate and attention,
23 employees of such medical providers across the country, including in Washington State and
24 including several individual Doe Plaintiffs, have been harassed, threatened, or witnessed
25 incidents of violence due to their possible affiliation with fetal tissue donations.

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AMENDED COMPLAINT - 5

1 fact include, but are not limited to whether the personal information of the Doe Plaintiffs
2 employed by the UW is exempt from disclosure under RCW 42.56.230.

3 34. Typicality. Doe Plaintiffs claims are typical of the claims of the Class. All
4 claims for all Doe Plaintiffs and members of the Class arise out of the same conduct by
5 Defendants and are based on the same legal and remedial theories.

6 35. Adequacy. Doe Plaintiffs are adequate representatives of the Class because their
7 interests do not conflict with the interests of the Class members they seek to represent.
8 Moreover, Doe Plaintiffs have retained counsel competent and experienced in prosecuting class
9 actions, intend to prosecute this action vigorously, and have the financial resources to do so.
10 Thus, the interests of Class members will be fairly and adequately protected.

11 36. Appropriateness of Injunctive and Declaratory Relief. Defendants have acted and
12 will act on grounds generally applicable to the Class, thereby making final injunctive and
13 corresponding declaratory relief appropriate with respect to the Class as a whole. Prosecution of
14 separate actions by individual members of the Class would create the risk of inconsistent or
15 varying adjudications with respect to individual members of the Class that would establish
16 incompatible standards of conduct for Defendant UW.

17 **FIRST CLAIM: DECLARATORY JUDGMENT**

18 37. Doe Plaintiffs repeat and reallege the allegations contained in the preceding
19 paragraphs.

20 38. A substantial and actual controversy exists between Doe Plaintiffs and Defendants
21 on a matter of public importance, namely whether the Doe Plaintiffs' personal identifying
22 information is exempt from disclosure under Washington's Public Records Act, RCW Ch. 42.56.

23 39. Under the Public Records Act, the actual or threatened disclosure of certain
24 information maintained by a public agency may be enjoined. Here, Doe Plaintiffs seek a
25 declaratory judgment that their personal identifying information is exempt from disclosure. A
26 declaratory judgment establishing the parties' legal rights in this regard will be conclusive.

1 and the vital governmental interest in ensuring the safety and privacy of individuals who are
2 employed by, contracting with, representing, interning, or volunteering for private organizations
3 who collaborate with governmental agencies, or those individuals who are employed by the
4 governmental agencies themselves.

5 50. Doe Plaintiffs have no adequate remedy at law. Final injunctive relief is
6 necessary to protect Plaintiffs and members of the Class from the release of exempt and private
7 information.

8 **V. PRAYER FOR RELIEF**

9 WHEREFORE, Doe Plaintiffs request judgment and seek relief against Defendants as
10 follows:

11 A. For certification of a class as defined above;

12 B. For appointment of Plaintiffs as representatives of the certified class;

13 C. For appointment of the undersigned counsel as counsel for the certified class:

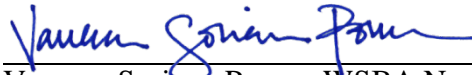
14 D. Declaratory judgment that the Doe Plaintiffs' personal identifying information is
15 exempt from disclosure under the Public Records Act;

16 E. Temporary, preliminary, and permanent injunctive relief enjoining UW from
17 publicly disclosing the Doe Plaintiffs' identities and/or personal identifying information,
18 including name, address, telephone number(s), and email address(es); any order directing release
19 of the records should call for redaction of the Doe Plaintiffs' identities and/or personal
20 identifying information; and

21 F. For such other and further relief as the Court deems just and proper.

1 DATED: August 3, 2016.

STOEL RIVES LLP

2 

3 Vanessa Soriano Power, WSBA No. 30777
vanessa.power@stoel.com

4 s/ Jill D. Bowman

5 Jill D. Bowman, WSBA No. 11754
jill.bowman@stoel.com

6
7 Stoel Rives LLP
8 600 University Street, Suite 3600
9 Seattle, WA 98101-4109
10 Telephone: (206) 624-0900/Fax: (206) 386-7500

11 Cooperating Attorney for Legal Voice

LEGAL VOICE

12 s/ Janet S. Chung

13 Janet S. Chung, WSBA No. 28535
jchung@legalvoice.com
14 Legal Voice
15 907 Pine Street, Suite 500
16 Seattle, WA 98101-1818
17 Telephone: (206) 682-9552/Fax: (206) 682-9556

**CORR CRONIN MICHELSON
BAUMGARDNER & PREECE LLP**

18 s/ David Edwards

19 David Edwards, WSBA No. 44680
dedwards@corrcronin.com

20 s/ Steven W. Fogg

21 Steven W. Fogg, WSBA No. 23528
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22 s/ Mallory Bouchee

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24 1001 Fourth Avenue, Suite 3900
25 Seattle, WA 98154-1051
26 Telephone: (206) 625-8600/Fax: (206) 625-0900

Attorneys for Plaintiffs

AMENDED COMPLAINT - 10

From: [David Daleiden](#)
To: pubrec@uw.edu
Subject: Public Records: Fetal Tissue Documents
Date: Wednesday, February 10, 2016 3:44:20 PM

9 February 2016

University of Washington

Public Records and Open Meetings

4311 11th Ave NE, Ste. 360

Box 354997

Seattle, WA 98105

pubrec@uw.edu

Dear Public Records Officer:

Under the **Washington Public Records Act § 45.56** *et seq.*, I am requesting an opportunity to inspect or obtain copies of all documents that relate to the **purchase, transfer, or procurement of human fetal tissues**, human fetal organs, and/or human fetal cell products at the University of Washington Birth Defects Research Laboratory from **2010 to present**. Without prejudice to this general request, in particular I request access to and a copy of documents relating to:

- 1) All communications between the University of Washington, the UW Birth Defects Research Laboratory, Alan Fantel, or Ian Glass; and Cedar River Clinics, Planned Parenthood of Greater Washington and North Idaho, Connie Cantrell, Karl Eastlund, Andrew Triplett, Denise Bayuszik, or Erica Garza;** including invoices, purchase orders, grant applications, contracts, materials transfer agreements, rent/lease agreements, and memoranda of understanding regarding the collection of fetal or placental tissues,

- 2) All invoices or purchase orders for fetal specimens procured by the University of**

Washington's **Birth Defects Research Laboratory** from 2010 to present,

- 3) All communications and documents about any cost reimbursement from the University of Washington's **Birth Defects Research Laboratory** to **Planned Parenthood of Greater Washington and North Idaho**, and any communications with **Deborah VanDerhei**, from 2010 to present,
- 4) All invoices or purchase orders for fetal specimens from **Advanced Bioscience Resources, Inc.** from 2010 to present,
- 5) All invoices or purchase orders for fetal specimens or cell products from **Da Vinci Biosciences, LLC** or **DV Biologics, LLC**, from 2010 to present,
- 6) All invoices or purchase orders for fetal specimens or cell products from **StemExpress, LLC** from 2010 to present,
- 7) All invoices or purchase orders for fetal specimens or cell products from **Novogenix Laboratories, LLC**, from 2010 to present,
- 8) All communications with **Planned Parenthood of Greater Washington and North Idaho**, **Planned Parenthood Federation of America**, and affiliates, including invoices, purchase orders, contracts, materials transfer agreements, rent/lease agreements, and memoranda of understanding, regarding procurement or disposition of fetal or placental tissue, from 2010 to present,
- 9) Any other communications, emails, or other documents regarding items **1-8**.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$100. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of bioethical regulations and fetal research. This information is not

being sought for commercial purposes.

The Washington Public Records Act requires that a response to this request be made within **5 business days**. If access to the records I am requesting will take longer, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific statutory exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. Also, please provide all segregable portions of otherwise exempt material. Please be advised that I am prepared to pursue whatever legal remedy necessary to obtain access to the requested records, and that violation of the open records law may result in the award of attorney fees and damages.

Thank you for your help accessing this information. Respectfully submitted,

David Daleiden

530.574.4045

david.daleiden@gmail.com

The Center for Medical Progress

15333 Culver Dr, Ste. 340-819

Irvine, CA 92647

Zachary Freeman
16108 Ash Way, Suite 113
Lynnwood, Washington 98087

February 10, 2016

Univ. of Washington School of Medicine
Office of Research and Graduate Education
Box 358048
Seattle, Washington 98195-4725

Attn: John T. Slattery, PhD.

Re: Public Records Request Regarding Communication with Planned Parenthood

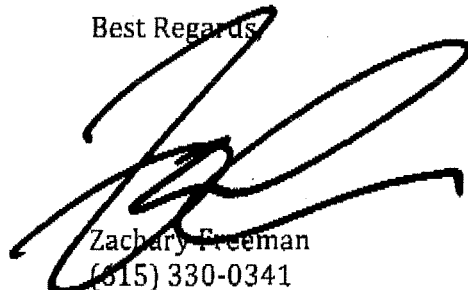
Dear Dr. Slattery,

Pursuant to RCW 42.17.010 to 42.17.350, and RCW 42.56.001 to 42.56.904, I am requesting the following information be furnished to me in a timely fashion, in accordance with the requirements that the statute provides:

- All communications between the University of Washington Birth Defects Research Laboratory (UWBDRL) and any executives, agents, employees, representatives, or volunteers from Planned Parenthood of Greater Washington and North Idaho, Planned Parenthood of the Great Northwest and Hawaiian Islands, or any Planned Parenthood affiliates in Washington State, beginning January 1, 2008.
- Any itemized receipts or invoices pertaining to the transfer of funds either to or from a Planned Parenthood affiliate or organization.
- All documentation pertaining to the process or procedure of UWBDRL's acquisition of fetal tissue collected by Planned Parenthood.

Please respond in writing to my requests by mail or email address, listed below. As provided in the statutes, I will look for your response within five (5) business days from receipt of this letter.

Best Regards



Zachary Freeman
(815) 330-0341
zgf615@gmail.com



UNIVERSITY OF WASHINGTON
Office of Public Records and Open Public Meetings
4311 11th Ave NE Suite 360, Seattle, WA 98105

Thursday, July 21, 2016

To: Individuals identified in records responsive to David Daleiden request

Re: public records request PR-2016-00109

The University of Washington has received the attached request for records under the Washington State Public Records Act. Pursuant to RCW 42.56.540, we are providing this notice to you as a person to whom at least some of the responsive requests pertain.

The University intends to release the requested records on August 5, 2016. If you believe that some or all of the records are exempt from public disclosure, you may wish to seek a court order to enjoin the release.

In order to prevent the release of the records on August 5, 2016, you must provide this office with a copy of the signed court order enjoining the release by August 4, 2016. If you are represented by legal counsel in this matter, please have your attorney contact the University's lawyer, Nancy Garland, at 206.543.4150.

If I do not have a copy of a signed court order preventing release of the records from you or your legal counsel by August 4, 2016, the University will release the documents at noon on August 5, 2016.

Sincerely

Perry M. Tapper
Compliance Officer



UNIVERSITY OF WASHINGTON
Office of Public Records and Open Public Meetings
4311 11th Ave NE Suite 360, Seattle, WA 98105

Tuesday, July 26, 2016

To: Individuals identified in records responsive to Zachary Freeman request

Re: public records request PR-2016-00117

The University of Washington has received the attached request for records under the Washington State Public Records Act. Pursuant to RCW 42.56.540, we are providing this notice to you, as a person to whom at least some of the responsive requests pertain.

The University intends to release the requested records on August 10, 2016. If you believe that some or all of the records are exempt from public disclosure, you may wish to seek a court order to enjoin the release.

If you intend to seek a court order, you must provide this office with a copy of the signed court order enjoining the release by August 9, 2016. If you are represented by legal counsel in this matter, please have your attorney contact the University's lawyer, Nancy Garland, at 206.543.4150.

If I do not have this information from you by August 9, 2016, I assume you have no interest in asking the court for an injunction and therefore the University will release the documents at noon on August 10, 2016.

Sincerely

Perry M. Tapper
Compliance Officer



600 University Street, Suite 3600
Seattle, Washington 98101
T. 206.624.0900
F. 206.386.7500
www.stoel.com

VANESSA SORIANO POWER
Direct (206) 386-7553
Vanessa.power@stoel.com

July 22, 2016

VIA EMAIL: DAVID.DALEIDEN@GMAIL.COM
VIA U.S. FIRST-CLASS MAIL

David Daleiden
The Center for Medical Progress
15333 Culver Dr., Ste. 340-819
Irvine, CA 92647

Re: University of Washington Public Records Request - PR-2016-00109

Dear Mr. Daleiden:

I am writing regarding your public records request to the University of Washington, PR-2016-00109. I represent individuals who received notice from the University of Washington that some of the records pertain to them and, absent an order enjoining disclosure, the records will be disclosed. The individuals do not contest disclosure of the substance of the records, but believe that their identities and/or other personal identifying information are exempt from disclosure.

The purpose of this letter is to ask whether you would consider agreeing to accept the records with limited redactions, precluding disclosure of the identities and other personal identifying information of individuals.

I look forward to hearing from you.

Very truly yours,

A handwritten signature in blue ink that reads "Vanessa Soriano Power". The signature is fluid and cursive, with a long horizontal flourish at the end.

Vanessa Soriano Power



600 University Street, Suite 3600
Seattle, Washington 98101
T. 206.624.0900
F. 206.386.7500
www.stoel.com

VANESSA SORIANO POWER
Direct (206) 386-7553
Vanessa.power@stoel.com

July 27, 2016

VIA EMAIL: ZGF615@GMAIL.COM
VIA U.S. FIRST-CLASS MAIL

Zachary Freeman
16108 Ash Way, Suite 113
Lynnwood, Washington 98087

Re: University of Washington Public Records Request - PR-2016-00117

Dear Mr. Freeman:

I am writing regarding your public records request to the University of Washington, PR-2016-00117. I represent individuals who received notice from the University of Washington that some of the records pertain to them and, absent an order enjoining disclosure, the records will be disclosed. The individuals do not contest disclosure of the substance of the records, but believe that their identities and/or other personal identifying information are exempt from disclosure.

The purpose of this letter is to ask whether you would consider agreeing to accept the records with limited redactions, precluding disclosure of the identities and other personal identifying information of individuals.

I look forward to hearing from you.

Very truly yours,

A handwritten signature in blue ink that reads "Vanessa Soriano Power".

Vanessa Soriano Power